

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America

Case No. 2:06-cr-00291-CDS-LRL

Plaintiff

Order Denying Certificate of Appealability

V.

Lonnie Lillard,

Defendant

10 Defendant Lonnie Lillard petitioned for writ of error coram nobis or motion to vacate
11 judgment. Pet., ECF No. 317. Finding that Lillard failed to meet the requirements of bringing a
12 successful coram nobis claim, I denied his petition for writ of error coram nobis.¹ Order, ECF No.
13 327. Lillard has appealed that decision to the Ninth Circuit. Appeal, ECF No. 328. Although
14 Lillard brought his claims in a coram nobis petition, a certificate of appealability is required
15 where a petition attacks the petitioner's conviction or sentence. ECF No. 330 (citing *Porter v.*
16 *Adams*, 244 F.3d 1006, 1007 (9th. Cir. 2001)).

Under 28 U.S.C. § 2253(c)(2), a certificate of appealability may issue only when the petitioner “has made a substantial showing of the denial of a constitutional right.” With respect to claims rejected on the merits, a petitioner “must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Applying these standards, I decline to issue a certificate of appealability because reasonable jurists would not find the ruling debatable or wrong.¹¹

Dated: October 1, 2024

~~Cristina D. Silva
United States District Judge~~

¹ An inmate still in custody may not apply for coram nobis relief because the more usual remedy of a habeas petition is still available. *Matus-Leva v. United States*, 287 F.3d 758, 761 (9th Cir. 2002).